

NATIVE AMERICAN HERITAGE COMMISSION

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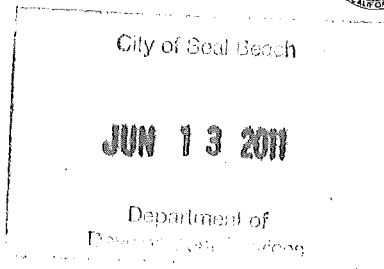


June 9, 2011

Mr. Mark Persico, AICP, Director of Development Services

City of Seal Beach

211 Eighth Street
Seal Beach, CA 90740



Re: SCH#2011061018 CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the: "Los Angeles Department of Water of Water and Power Specific Plan Amendment Project;" Located in the City of Seal Beach; Orange County, California

Dear Mr. Persico:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources. The NAHC wishes to comment on the above-referenced proposed Project.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as "consulting parties" under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. The NAHC Sacred Lands File (SLF) search resulted in; **Native American cultural resources were not identified** within the 'area of potential effect (APE)', based on the USGS coordinates of the project location provided.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254.10.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to

obtain their recommendations concerning the proposed project. Pursuant to C" A Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.

Furthermore we recommend, also, that you contact the California Historic Resources Information System (CHRIS) California Office of Historic Preservation for pertinent archaeological data within or near the APE, at (916) 445-7000 for the nearest Information Center in order to learn what archaeological fixtures may have been recorded in the APE.

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation.

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code 5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code 6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places and there may be sites within the APE eligible for listing on the California Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

California Native American Contact List
Orange County
June 9 2011

Ti'At Society/Inter-Tribal Council of Pimu
Cindi M. Alvitre, Chairwoman-Manisar
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Costa Mesa, , CA 92626
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(714) 504-2468 Cell

Gabrielino Tongva Nation
Sam Dunlap, Chairperson
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samdunlap@earthlink.net
Gabrielino Tongva

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
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Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
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San Juan Capistrano CA 92675-2674
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(949) 488-3294 - FAX
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Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Private Address
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310-570-6567

Gabrielino Tongva Indians of California Tribal Council
Robert F. Dorame, Tribal Chair/Cultural Resources
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gtongva@verizon.net
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562-761-6417- fax

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
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Juaneno Band of Mission Indians
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Santa Ana , CA 92799
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714-998-0721 - FAX
714-321-1944 - cell

list is current only as of the date of this document.

tribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code,
tion 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

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#2011061018; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Los Angeles Department of Water & Power Specifi
1 Amendment; located in the City of Seal Beach; Orange County, California.

California Native American Contact List
Orange County
June 9 2011

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Juaneno Band of Mission Indians
Anita Espinoza
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(714) 779-8832

Juaneno Band of Mission Indians Acjachemen Nation
Joyce Perry; Representing Tribal Chairperson
4955 Paseo Segovia Juaneno
Irvine , CA 92612
949-293-8522

Gabrielino-Tongva Tribe
Linda Candelaria, Chairwoman
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lcandelaria1@gabrielinoTribe.org
626-676-1184- cell
(310) 587-0170 - FAX
760-904-6533-home

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2011061018; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Los Angeles Department of Water & Power Specific Plan Amendment; located in the City of Seal Beach; Orange County, California.